

REMARKS

The applicant appreciates the Examiner's thorough examination of the application and requests reexamination and reconsideration of the application in view of the preceding amendments and the following remarks. The applicant also appreciates the Examiner's indication that claims 14-15, 17-20, 34-40, 42 and 45-47 are allowed and claims 3, 6, 8-9, 12-13, 23, 26, 28-29 and 32-33 are allowable.

The Examiner rejects claims 1, 2, 4-5, 7, 10-11, 21-22, 24-25, 27, 30-31 and 43-44 under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,741,260 to *Songer et al.* in view of U.S. Patent No. 5,476,465 to *Preissman*.

Claim 1 of the subject application is directed to a crimping system. A crimp tube has an aperture formed along a long axis of the crimp tube for a suture to be located within the aperture of the crimp tube. A set of crimp devices are provided for attachment to first and second portions of the suture. Claim 1 also recites a unique crimping tool with a first arm having a proximal end and a distal end, the proximal end comprising a handle and the distal end comprising a first jaw, a second arm having a proximal end and a distal end, the proximal end comprising a handle and the distal end comprising a second jaw, the second arm hingedly connected to the first arm, a first crimping member integral with the first jaw of the first arm, the first crimping member having a first inner surface width, and a second crimping member integral with the second jaw of the second arm, the second crimping member having a second inner surface width.

Songer is directed to a cable system for a bone securance. The system of *Songer* includes surgical crimping pliers 10 which comprise a pair of operating handles 12, 14 and connected, opposing, crimping jaws 16, 18. The jaws define opposed recesses for carrying

and crimping a tubular crimp member 36 which is configured to carry a plurality of multistrand cable sections. A capstan 44 is carried on one of the handles for winding cable portions carried by the crimp member.

In operation of the *Songer* system, end portions 32a, 34a of cable 42 extend within crimp 36 and along pliers handle 12 to capstan member 44. Both end portions 32a, 34a are tightened about the drums of the capstan. Then, pliers 10 are activated to crush crimp 36, and end portions 32a, 34a outside of crimp 36 may be cut and removed. See Col. 3, line 56-Col. 4, line 26 of *Songer*.

The Examiner alleges that *Songer* discloses a crimp tube 36 crimped by a crimping tool having jaws, handles and crimping members with gaps therebetween when closed. The Examiner further alleges that a tensioner holds tension on a suture crimped into the lumen of the tube, and that two crimp tubes are shown, one being the claimed crimp tube and the other being one of the set of crimp devices. The Examiner also states that a plurality of crimp devices are not disclosed, and that it would be obvious to provide a set with more than two crimp tubes.

However, *Songer* fails to disclose a set of crimp devices for attachment to first and second portions of the suture as claimed by the applicant. In addition to the crimp tube 12, Figs. 16-17, the subject invention also includes a set of crimp devices 34a, 34b, for attachment to first and second portions of the suture. See page 14, lines 4-16 of the subject application. *Songer* only discloses a single crimp tube 36 which is crimped about cable portions 32, 34. Contrary to the Examiner's assertion, *Songer* does not disclose two crimp tubes. The Examiner may be referring to Fig. 8 of *Songer* to support this assertion.

However, Fig. 8 shows two separate cables being used to close a sternum: "In Fig. 8, a

closure of the sternum is seen, using a pair of cable windings, which may be simultaneously applied with a pair of pliers 10, or sequentially applied with the same set of pliers.”

(emphasis added) Col. 4, lines 27-30 of *Songer*. The crimp tubes shown in Fig. 8 of *Songer* are used to secure individual cables. Only one crimp tube is used in conjunction with each cable of *Songer*. Therefore, it is clear that *Songer* fails to disclose crimp devices for attachment to first and second portions of the suture as claimed by the applicant.

Accordingly, as *Songer* fails to disclose crimp devices for attachment to first and second portions of the suture as claimed by the applicant, the applicant submits that the claims of the subject application are patentable over *Songer*.

Preissman also fails to disclose crimp devices as claimed by the applicant.

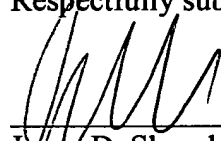
Preissman is directed to a surgical cable crimp for securing a surgical cable in a loop. The crimp has body 18 with a head 24 and a neck 22, with a first longitudinal bore 20 in the crimp body and a second bore 26 offset from the first bore through the head. A surgical cable passes through the second bore and then may be looped about a portion of a patient's body and inserted into the first bore. The neck is then crimped to secure the surgical cable and form a secured loop. *Preissman* does not disclose, teach or suggest crimp devices for attachment to first and second portions of the suture as claimed by the applicant.

As neither *Songer* nor *Preissman* disclose, teach or suggest a set of crimp devices for attachment to first and second portions of the suture as claimed by the applicant, independent claims 1 and 21, and their respective dependent claims, are patentable over the cited references.

Each of the Examiner's rejections has been addressed or traversed. Accordingly, it is respectfully submitted that the application is in condition for allowance. Early and favorable action is respectfully requested.

If for any reason this Response is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned or his associates, collect in Waltham, Massachusetts, at (781) 890-5678.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JDS', is written over a horizontal line.

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